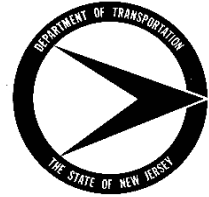


***New Jersey Department of Transportation***

1035 Parkway Avenue, PO Box 600, Trenton, New Jersey 08625-0600



***Baseline Document Change Announcement***

***Standard Specifications, Subsection 107.22***

***Risks assumed by the Contractor***

**BDC02S-03**

**May 24, 2002**

**SUBJECT: Revisions to Subsection 107.22 of the Metric and English 2001 Standard Specifications**

The above referenced subsection of the Standard Specifications is revised to clarify the risks assumed by the contractors in regards to permanent construction and conditions under which the contractors can receive reimbursement. The change shifts to the Department the risk of loss for damage to elements of permanent construction if the element damaged is serving its intended purpose and the damage resulted from a public traffic accident and not from the negligence of the contractor or vandalism.

Any payment to the Contractor under this section will be federally **non-participating**. It is understood that the Department will attempt to recoup the cost of such damage through its own insurance or the insurance of the individual involved in the public accident. The Construction Procedures Handbook will reflect these changes as well.

The specification has no reference to dimensions. Therefore, the same specification shall be used for both English and metric unit projects.

The following revisions shall be incorporated in both the metric unit Standard Input SI2001M1 and English unit Standard Input SI2001E1:

**107.22 Risks Assumed by the Contractor**  
**SUBPART 1 IS CHANGED TO:**

- 1. Risks of Loss or Damage to the Permanent Construction.** Until Acceptance, and within the limits of the Project's work, the Contractor shall bear the risk of all loss or damage to all permanent construction and temporary construction performed under this Contract and to materials, whether or not it has received payment for such construction or materials under Subsection 109.05, 109.06, or 109.07, except payment will be made to the Contractor for the repair or replacement of any permanent element of the construction which has not been accepted by the Department, if the element of the work damaged is completed to the stage of serving its intended function and is subsequently damaged by accident by public traffic. In order to receive payment, the Contractor must supply satisfactory evidence that such damage was caused by a public traffic accident which was not caused by vandalism or by the equipment of the Contractor or any of its subcontractors or suppliers. Satisfactory evidence shall generally be limited to: accident reports filed with the Division of Motor Vehicles, police agencies or insurance companies; statements by reliable, unbiased eye witnesses; identification of the vehicle involved in the accident. Physical evidence that the damage was caused by a motor vehicle (such as tire marks or broken headlight glass) will not be sufficient unless it can be clearly shown that the damage was not caused by

the Contractor's vehicles or by vandalism. The Contractor shall take every precaution, as allowed by the Contract against injury or damage to any part of the construction or to materials by the action of the elements, the traveling public, vandalism, or from any other cause, whether arising from the execution or the non-execution of the work. The Contractor shall promptly repair, replace, and make good any such damage or loss without cost to the Department. The Contractor shall not bear such risk of loss or damage, which arises from acts of war or floods, tidal waves, earthquakes, cyclones, tornadoes, hurricanes, or other cataclysmic natural phenomenon unless such loss or damage is covered by insurance.

### **Instructions to Designers**

The above specification revision shall be included for all Department projects that have been designed using the English or Metric 2001 Standard Specifications and are to be advertised after June 6, 2002. The specification revision has been incorporated in the Standard Inputs SI2001E1 and SI2001M1 updated as of May 24, 2002.

Designers may access updated versions of the Standard Inputs SI2001E1 and SI2001M1 from the following New Jersey Department of Transportation Web Page:

<http://www.state.nj.us/transportation/cpm/StandardInputs/standardinputs.htm>.

### **Distribution and Announcement Access Information**

This announcement is being distributed electronically to our in-house staff and various public agencies based on our Standard Specifications distribution list maintained by the Engineering Documents Unit.

Internet access to this BDC Announcement can be downloaded and viewed from the following New Jersey Department of Transportation Web Page:

<http://www.state.nj.us/transportation/cpm/BaselineDocuments/bdcdownloads.htm>T.

Hard copies of this document can be acquired on a limited basis by contacting:

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